

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 67, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 36-8-16.5-26 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. **(a)** The board may
- 5 adjust the wireless emergency enhanced 911 fee that is assessed under
- 6 section 25.5 of this chapter. The board shall assess the ~~fees~~ fee at rates
- 7 that ensure full recovery over a reasonable period of time of costs
- 8 incurred by:
- 9 **(1)** CMRS providers **before July 1, 2005;** and
- 10 **(2)** PSAPs;
- 11 to develop and maintain an enhanced wireless 911 system.
- 12 **(b)** The ~~fees~~ fee assessed under section 25.5 of this chapter may
- 13 not:
- 14 **(1)** be raised or lowered more than one (1) time in a calendar
- 15 year;
- 16 **(2)** be raised more than seven cents (\$0.07) by an adjustment; or
- 17 **(3)** exceed one dollar (\$1) per month for each telephone number.
- 18 SECTION 2. IC 36-8-16.5-37 IS AMENDED TO READ AS
- 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. A CMRS provider
- 20 may recover **from the fund** all of its ~~cost of implementing costs~~
- 21 **incurred before July 1, 2005, to implement** enhanced wireless 911
- 22 service. ~~from the fund.~~
- 23 SECTION 3. IC 36-8-16.5-38 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. To recover costs
- 25 **incurred before July 1, 2005, as allowed** under section 37 of this
- 26 chapter, a CMRS provider must submit a full, sworn, true, complete,

and detailed cost recovery plan. The board must approve the plan before the CMRS provider may recover costs from the fund under section 37 of this chapter.

SECTION 4. IC 36-8-16.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) Except as provided by section 26 of this chapter and subsection (b), the fund must be managed in the following manner:

(1) Three cents (\$0.03) of the wireless emergency 911 fee collected from each subscriber must be deposited in an escrow account to be used to reimburse:

(A) CMRS providers, ~~and~~ PSAPs, **and the board** for costs associated with implementation of phase two (2) of the FCC order; **and**

(B) **PSAPs and the board for costs associated with other wireless enhanced 911 services mandated by the FCC but not specified in the FCC order.**

The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers and PSAPs under this subdivision. ~~The board shall reevaluate the fees placed into escrow not later than May 1, 2000. The board shall determine if the fee should be reduced, remain the same, or be increased based on the latest information available concerning the costs associated with phase two (2) of the FCC order.~~

(2) At least twenty-five cents (\$0.25) of the wireless emergency 911 fee collected from each subscriber must be deposited in an escrow account and used to reimburse CMRS providers for the actual costs incurred by the CMRS providers **before July 1, 2005**, in complying with the wireless 911 requirements established by the FCC order and rules that are adopted by the FCC under the FCC order, including costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the costs of operating the service. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers under this subdivision. ~~Except as provided by section 38 of this chapter,~~ The CMRS provider may only request funds for true cost recovery. The board may increase the amount held in escrow under this subdivision not more than one (1) time a calendar year. If the board adjusts the wireless emergency 911 fee under section 26 of this chapter within a calendar year, an adjustment to the amount held in escrow under this subdivision for the calendar year must be made at that time. **When all CMRS providers have been reimbursed under this chapter, the board shall reevaluate the part of the fee used to reimburse CMRS providers under this subdivision and may:**

(A) **reduce the amount of; or**

(B) **reallocate;**

1 **the part of the fee used to reimburse CMRS providers under**
 2 **this subdivision. A reduction or reallocation under this**
 3 **subdivision is not an adjustment under section 26 of this**
 4 **chapter.**

5 (3) Two percent (2%) of the wireless emergency 911 fee
 6 collected from each subscriber may be used by the board to
 7 recover the board's expenses in administering this chapter.
 8 However, the board may increase this percentage at the time the
 9 board may adjust the monthly fee assessed against each
 10 subscriber to allow for full recovery of administration expenses.

11 (4) The remainder of the wireless emergency 911 fee collected
 12 from each subscriber must be distributed in the following
 13 manner:

14 (A) The board shall distribute on a monthly basis to each
 15 county containing one (1) or more eligible PSAPs, as
 16 identified by the county in the notice required under section
 17 40 of this chapter, a part of the remainder based upon the
 18 county's percentage of the state's population (as reported in
 19 the most recent official United States census). A county
 20 must use a distribution received under this clause to
 21 reimburse PSAPs that:

22 (i) are identified by the county under section 40 of this
 23 chapter as eligible for distributions; and

24 (ii) accept wireless enhanced 911 service;

25 for actual costs incurred by the PSAPs in complying with
 26 the wireless enhanced 911 requirements established by the
 27 FCC order and rules.

28 (B) The amount of the fee remaining, if any, after the
 29 distributions required under clause (A) must be distributed
 30 in equal shares between the escrow accounts established
 31 under subdivisions (1) and (2). **If, after all CMRS**
 32 **providers have been reimbursed under this chapter, an**
 33 **escrow account is no longer maintained under**
 34 **subdivision (2), the total amount of the fee remaining, if**
 35 **any, after the distributions required under clause (A)**
 36 **must be distributed to the escrow account established**
 37 **under subdivision (1).**

38 (b) Notwithstanding the requirements described in subsection (a),
 39 the board may transfer money between and among the accounts in
 40 subsection (a) in accordance with the following procedures:

41 (1) For purposes of acting under this subsection, the board must
 42 have a quorum consisting of at least one (1) member appointed
 43 under section 18(c)(2) of this chapter and at least one (1) member
 44 appointed under section 18(c)(3) of this chapter.

45 (2) A transfer under this subsection must be approved by the
 46 affirmative vote of:

47 (A) at least fifty percent (50%) of the members present at a
 48 duly called meeting of the board who are appointed under
 49 section 18(c)(2) of this chapter; and

50 (B) at least fifty percent (50%) of the members present at a
 51 duly called meeting of the board who are appointed under

1 section 18(c)(3) of this chapter.
 2 (3) The board may make transfers only one (1) time during a
 3 calendar year.

4 (4) The board may not make a transfer that:
 5 (A) impairs cost recovery by CMRS providers or PSAPs; or
 6 (B) impairs the ability of the board to fulfill its management
 7 and administrative obligations described in this chapter.

8 SECTION 5. IC 36-8-16.5-42 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. (a) A CMRS
 10 provider shall submit to the board sworn invoices related to a request
 11 for reimbursement under section 39 of this chapter. An invoice
 12 submitted under this section must contain language swearing or
 13 affirming, under the penalty of perjury, that the representations made
 14 in the invoice are accurate to the best of the signer's knowledge. The
 15 signer must be:

16 (1) an employee or officer of the CMRS provider submitting the
 17 invoice; and
 18 (2) designated by the CMRS provider to sign on its behalf and
 19 bind the CMRS provider to the representations made.

20 The board may not approve an invoice submitted under this section if
 21 reimbursement of a cost described in the invoice is not related to
 22 compliance with the requirements of the FCC order and the rules
 23 adopted by the FCC under the FCC order. **The board may not**
 24 **approve an invoice submitted under this section after December 31,**
 25 **2005.**

26 (b) If:
 27 (1) the board receives a written complaint alleging that a CMRS
 28 provider has used money received under this chapter in a manner
 29 that is inconsistent with this chapter; and
 30 (2) a majority of the board votes to conduct an audit of the
 31 CMRS provider;

32 the board may contract with a third party auditor to audit the CMRS
 33 provider to determine whether the CMRS provider has used money
 34 received under this chapter in a manner consistent with this chapter.

35 SECTION 6. IC 36-8-16.5-15 IS REPEALED [EFFECTIVE
 36 JULY 1, 2005].

(Reference is to SB 67 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

GARTON

Chairperson